

State Board of Equalization
OPERATIONS MEMO
Confidential

: 1132
Date : November 21, 2005

**SUBJECT: GUIDELINES FOR EVALUATING
REQUESTS FOR RELIEF FROM PENALTIES**

I. PURPOSE

This document provides guidelines, in the form of representative examples, for evaluating requests for relief of penalties submitted by tax or feepayers. Although each request for relief from penalty should be evaluated on its own merits, these guidelines should be used by staff in determining whether a tax or feepayer's failure to make a timely return or payment is subject to relief and, accordingly, whether a recommendation should be made to the Board that the tax or feepayer's request be granted.

The purpose of disseminating these guidelines is to maintain consistency in granting or denying requests for relief of penalties by all departments and divisions. These guidelines will be updated, as needed, to ensure consistent and uniform enforcement of the statutes administered by the Board.

The guidelines provided herein pertain only to requests for relief from penalty afforded under the Revenue and Taxation Code sections identified in section II, below. The Board may, however, grant relief from penalties in other situations. For example, section 6596 allows for relief from penalty in instances where a tax or feepayer relied on written advice provided by the Board. Relief from penalty may also be granted under sections 6487.05 or 6487.06 (Voluntary Disclosure Programs) when a taxpayer failed to timely report or remit taxes due to reasonable cause or circumstances beyond its control. Guidelines for relief from penalty under such situations are not covered in this operations memo as policies and procedures were previously established and provided in Operations Memorandums 888 and 1111, Compliance Policy and Procedures Manual sections 120.030 and 150.040, and Audit Manual section 0101.75.

II. BACKGROUND

Each tax and fee program identified in the following table provides for the relief of certain specified penalties in instances where a person's failure to make a timely return or payment was

“...due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect.”

Persons seeking relief are required to file with the Board:

“...a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.”

Tax or Fee Program	Revenue and Taxation Code Section
Sales and Use Tax Law	6592
Motor Vehicle Fuel Tax Law	7657
Use Fuel Tax Law	8877
Tax on Insurers	12636
Cigarette Tax Law	30282
Alcoholic Beverage Tax Law	32255
Timber Yield Tax Law	38452
Energy Resources Surcharge Law	40102
Emergency Telephone Users Surcharge Law	41096
Hazardous Substances Tax Law	43157
Solid Waste Disposal Site Cleanup and Maintenance Fee Law	45155
Oil Spill Response, Prevention, and Administration Fees Law	46156
Underground Storage Tank Maintenance Fee Law	50112.2
Fee Collection Procedures Law	55044
Diesel Fuel Tax Law	60209

III. PERMIT OR LICENSE HOLDERS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Reasons Generally Not Acceptable

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IV. PERSONS NOT HOLDING A PERMIT

A. Sales and Use Tax

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Underground Storage Tank Maintenance Fee



V. **ACCEPTANCE OF STATEMENTS SUBMITTED UNDER PENALTY OF PERJURY**



VI. **MISCELLANEOUS**

Double Amnesty Penalty – Section 7073(c)

Pursuant to the guidelines provided herein, the relief of any penalty, other than the 50 Percent Amnesty Interest Penalty set forth in section 7074(a), will also result in the cancellation of the corresponding Double Amnesty Penalty as set forth in section 7073(c).

VII. **OBSOLESCENCE**

This Operations Memo will become obsolete when the information contained herein is incorporated in the appropriate manuals or is obsolete.

Randie L. Henry
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